IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 21118 of 2004

Between:

J. Madhavaiah, S/o. J. Giddaiah,
R/o. T. Gokulapadu, Krishnagiri Mandal, Kurnool District.

..... PETITIONER

AND

1 The District Collector, Kurnool, Kurnool District.
2 The Joint Collector, Kurnool, Kurnool District.
3 The Revenue Divisional Officer, Kurnool, Kurnool District.
4 P. Rajendranath Reddy, S/o. Purushotham Reddy,
T. Gokulapadu Village, Krishnagiri Mandal,
Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus to declare the proceedings of the 1st respondent bearing Rc. CS3/192/2004 dt. 4-11-2004, as illegal, arbitrary and consequently set aside the same by directing the respondent Nos. 1 to 3 to appoint the petitioner herein as Fair Price Shop Dealer of T. Gogulapadu Village, Krishnagiri Mandal, Kurnool District.

Counsel for the Petitioner: MR.J.JANAKIRAMI REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following :

ORDER:

The petitioner and the 4th respondent submitted applications in response to a notification issued by the third respondent, the Revenue Divisional Officer, for appointment of Fair Price Shop Dealer for T.Gokulapadu Village, Krishnagiri Mandal, Kurnool District. According to the petitioner, he was selected and appointed and that the order of appointment was also displayed on the notice board. It is alleged that within one week, another order appointing the 4th respondent was displayed on 24.06.2004. Aggrieved thereby, he preferred an appeal before the 2nd respondent.

Through order dated 05.10.2004, the second respondent allowed the appeal and set aside the order of the 3rd respondent passed in favour of the 4th respondent and a further direction was issued to appoint the petitioner herein as Dealer. The 4th respondent, in turn, filed a revision before the 1st respondent. The revision was allowed through order, dated 04.11.2004. He found that the 2nd respondent did not give an opportunity to the 4th respondent while allowing the appeal and accordingly remanded the matter to the Joint Collector to pass orders afresh, after giving opportunity to both the parties. The same is challenged in this writ petition.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

The appeal preferred by the petitioner against the order, dated 24.06.2004, passed by the 3rd respondent appointing the 4th respondent as Dealer, was allowed on 05.10.2004. In the order, dated 05.10.2004, passed by the 2nd respondent, it is not stated whether any notice has been issued to the 4th respondent, nor there is any reference to submissions, if any, made on his behalf. It was in this context that the 4th respondent filed a revision. However, while finding fault with the 2nd respondent for not issuing any notice to the 4th respondent before setting aside the order of

appointment, dated 24.06.2004, the 1st respondent himself did not choose to hear the petitioner herein, before passing the order dated 04.11.2004. Therefore, the complaint of the petitioner against that order cannot be brushed aside.

Though this Court is convinced that the order passed by the first respondent on 04.11.2004, in a way violates the principles of natural justice, the result thereof cannot be found fault with. The reason is that the matter has, any way, to be dealt with, afresh, by the Joint Collector, after issuing notice to the petitioner on the one hand and the 4th respondent on the other hand.

Hence, this writ petition is disposed of directing the second respondent to issue notice of hearing to the petitioner as well as the 4th respondent and dispose of the appeal as early as possible, not later than four weeks from the date of receipt of this order. The existing arrangement shall continue till such orders are passed. There shall be no order as to costs.

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15.12.2004

Note: Issue C.C. in two days

(B/o)

Jsu

To

1 The District Collector, Kurnool, Kurnool District.
2 The Joint Collector, Kurnool, Kurnool District.
3 The Revenue Divisional Officer, Kurnool, Kurnool District.

4 2CCs to the Government Pleader for Civil Supplies, High

Court Buildings, Hyderabad. (O.U.T)

5 2CD copies.